

1982 WL 189276 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 30, 1982

*1 Edgar A. Vaughn, Jr., State Auditor
207 Wade Hampton Office Building
Post Office Box 11333
Columbia, South Carolina 29211

Dear Mr. Vaughn:

You have requested the opinion of this Office whether funds may be transferred by the Department of Social Services to the Legislative Health Care Planning and Oversight Committee of the General Assembly for the purpose of that Committee retaining a consultant to advise the Committee with respect to recommended changes in the nursing home reimbursement formula.

It is the opinion of this Office that no such transfer of funds is permitted by law. Section 140 of the 1981 Appropriations Act (Act No. 178) authorizes transfers of appropriations within departments upon the unanimous approval of the Budget and Control Board; but there is no provision allowing transfers between departments of State government. This interpretation is reenforced by the provisions of Section 148 of that Act which allow certain transfers within agencies or institutions; and by Section 164 of that Act which authorizes a transfer of specific funds from the Budget and Control Board to the Joint Appropriations Review Committee of the General Assembly. No such special provisions would be required if it were the general intent of the legislature to permit transfers of funds between departments generally.

Agencies and institutions are, of course, given appropriations and authorization for contract services, and it is a common practice to employ consultants under contract to perform a service needed to carry out the functions of an agency or institution. Therefore, it is our opinion that it would be proper for DSS to contract with a consultant to provide the advice and assistance needed by the Department to assist in resolving this matter and to assist the Committee in arriving at its recommendations.

If you have further questions, please do not hesitate to call me.

Sincerely,

Frank K. Sloan
Deputy Attorney General

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